

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CHRISTINA GREEN,

Plaintiff,

-against-

THE CITY OF NEW YORK and DETECTIVE DEMOS
MARINAKOS Shield # 07028,

Defendants.
-----X

**ANSWER TO FIRST
AMENDED
COMPLAINT ON
BEHALF OF THE
CITY OF NEW YORK**

09 CV 1925 (JSR)

**JURY TRIAL
DEMANDED**

Defendant City of New York, by its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for its answer to the complaint, respectfully alleges upon information and belief, as follows:¹

1. Denies the allegations set forth in paragraph “1” of the complaint, except admits that plaintiff purports to proceed as stated therein.
2. Denies the allegations set forth in paragraph “2” of the complaint, except admits that plaintiff purports to proceed as stated therein.
3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “3” of the complaint.
4. Admit.
5. Denies the allegations set forth in paragraph “5” of the complaint, except admits that on or about November 24, 2007, Demos Marinakos was a member of the New York City Police Department (“NYPD”).

¹ Upon information and belief, Detective Demos Marinakos has not been served with process and is thus not party to this action.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the complaint.
7. Denies the allegations set forth in paragraph “7” of the complaint.
8. Denies the allegations set forth in paragraph “8” of the complaint.
9. Denies the allegations set forth in paragraph “9” of the complaint, except admits that, upon information and belief, the case was dismissed against plaintiff on or about January 29, 2008 on the grounds of N.Y.P.L. §30.30.
10. Denies the allegations set forth in paragraph “10” of the complaint.
11. Denies the allegations set forth in paragraph “11” of the complaint.
12. Denies the allegations set forth in paragraph “12” of the complaint.
13. In response to the allegations set forth in paragraph “13” of the complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.
14. Denies the allegations set forth in paragraph “14” of the complaint.
15. Denies the allegations set forth in paragraph “15” of the complaint.
16. Denies the allegations set forth in paragraph “16” of the complaint.
17. Denies the allegations set forth in paragraph “17” of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

36. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

37. Defendant has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

38. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and was not the proximate result of any act of the defendant.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

39. Plaintiff has failed to comply with GML §50.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

40. Plaintiff has failed to comply with the conditions precedent to suit.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

41. Any state law claims set forth herein are barred by the applicable statute of limitations.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

42. At all times relevant to the acts alleged in the complaint, defendant City of New York acted reasonably, properly, lawfully and in good faith in the exercise of its discretion. Consequently, defendant City is entitled to governmental immunity.

WHEREFORE, defendant City of New York requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
April 30, 2009

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendant City of New York
100 Church Street, Room 3-199
New York, New York 10007
(212) 788-1106

By: /S
CAROLINE CHEN
Assistant Corporation Counsel

cc: Michael Colihan, Esq. (by ECF)
44 Court Street, Suite 911
Brooklyn, New York 11201

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MICHAEL A. CARDOZO

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New York, New York 10007*

*Of Counsel: Caroline Chen
Tel: (212) 788-1106
NYCLIS No.*

*Due and timely service is hereby Admitted. New York, New
York , 2009 . . .*

..... Esq.

Attorney for